

Marquis' Thesis

Thesis: Even assuming a fetus is not a person, it can be shown that in most cases abortion is impermissible.

"[A]bortion is, except possibly in rare cases, seriously immoral, [and] is in the same moral category as killing an innocent adult human being" (pg 183, Reader pg. 13)

Method:

- It is uncontroversial that killing adult human beings is *prima facie* seriously wrong.
- DM asks the question: "What is it about killing adult human beings that makes it wrong?"
- He will give an account why killing human beings is wrong, then apply this analysis to abortion.

Why is killing wrong?

Three Possible Answers Rejected:

1. There is a loss to the friends and family of the victim.
Reply: This does not explain the wrongness of killing a hermit.
2. The brutalization of the killer, i.e., the degradation and suffering the killing causes the killer.
Reply:
 - The primary concern is not the killer. Whatever feature explains the wrongness of killing must address the serious harm done to the victim.
 - Yields the result that the victim of a killer who has no conscience would not be wronged. That's absurd.
3. The loss of a future biological life.
Reply: Consider two scenarios:
 - a. A person falls into a coma, persists in a vegetative state for 30 years, then dies.
 - b. A person dies now.
 - If (3) is correct, then (b) must be worse, but it is not.

Why is killing wrong?

DM's Answer: What makes killing seriously wrong is that it causes premature death, that is, it deprives one of the goods of a future conscious life.

Future like ours (FLO) account: Our futures are valuable to us, so anything that has a future like ours has a future valuable to them.

The "goods of life are whatever we get out of life.... They are completed projects of which we are proud, the pursuit of our goals, aesthetic enjoyments, friendships, intellectual pursuits, and physical pleasures of various sorts. The goods of life are what makes life worth living."

Advantages of the FLO Account

- Can explain why premature deaths (from disease or natural disaster, etc.) are "misfortunes", i.e., bad for the individuals who die.
- Can explain why being killed is (usually) a worse crime than being robbed or beaten or harmed in some other way.
- Can explain why killing an adult human being is justified "only in the most extreme circumstances...circumstances in which the loss of life to an individual is outweighed by a worse loss if that life is not taken."
 - » For examples: killing in self-defense, killing in order to save one's own life, killing in a just war, the death penalty if it deters.

Advantages to the FLO Account

- Can explain why it's okay to intentionally cause the death of a permanently unconscious patient.
- Can explain why it's wrong to cause the death of a temporarily unconscious patient.
- Can explain why it's okay to assist a patient end his/her life who faces "intractable pain and wants to die."
- It correctly implies that it would be wrong to kill non-human aliens who have "futures sufficiently like ours."
- Can explain why killing infants and the severely mentally retarded is nearly always seriously wrong, unlike certain psychological theories of person-hood discussed above.

DM'S Anti-Abortion Argument

1. It is wrong to kill creatures that have a future like ours.
2. A fetus has a future like ours.
3. Therefore, it is wrong to kill a fetus.
4. Abortion kills the fetus.
5. Therefore, abortion is impermissible.

Problems for DM's Account

The Potentiality Objection: The FLO account of the wrongness of killing relies on a fallacious inference: it argues from the fetus' potential for a life of value to the conclusion that it has a life of value.

DM's reply: The FLO account does rely on the claim that if an entity has a potential for a life it will value, or would value if it does not die, then it is seriously wrong to kill it. But the FLO account relies on the same principle to explain the wrongness of killing adults, infants and children. So, it is not a fallacious inference.

DM admits that there are fallacious uses of potentiality premises, such as when one argues from the premise that persons have the right to life to the conclusion that potential persons have the right to life. But clearly, this is not generally true: we can't infer that potential voters have the right to vote, or that potential presidents have the rights of the presidency.

The No Interests Objection:

- i. Without conscious awareness, beings cannot have interests.
- ii. Without interests, they cannot care about their welfare.
- iii. Beings who cannot care about their own welfare have no moral status.
- iv. Fetuses prior to 22 weeks lack conscious awareness.
- v. So, fetuses prior to 22 weeks have no moral status.

DM's reply: If (iii) is true, then temporarily unconscious patients would have no moral status and should not be given life-support for their own sake. But they do and should be.

Likewise, fetuses are temporarily unconscious; they will (normally) become conscious after being given "placental life support."

The Contraception Objection

Contraception (and abstention from sex when conception is possible) results in fewer futures of value. So, if the FLO account is correct, then contraception and abstention are seriously wrong.

DM's reply:

- Contraception is seriously wrong only if there's some individual who would be seriously wronged by being deprived of a future of value.
- But at the time of contraception or abstinence there is no *individual that could be the subject of harm*. There are just sperms and eggs. So, contraception and abstinence are not seriously wrong per the FLO account.

The Severely Depressed Objection

DM's account seems to entail that it would be ok to kill the severely depressed if the severely depressed would not value the experience of his/her future life. But that seems clearly wrong.

Reply: Perhaps DM would say that while the value of the severely depressed person's future would not provide a sufficient reason not to kill him, as an adult his right not to be killed would. DM doesn't rule out an appeal to other moral considerations, (though he also does not explicitly endorse the idea that persons have moral rights.)

While this response seems plausible for an adult, what about an infant or fetus that will be severely depressed and so will not value its future life? (Suppose we can know this via genetic testing.) Would it then be ok to kill it? DM doesn't want to say that an infant has rights, so he cannot say that its having a right not to be intentionally killed would make it wrong.

The Tradeoff Principle

The Tradeoff Principle: killing a creature with a future of value is justified only if "the loss of life to an individual is outweighed by a worse loss if that life is not taken."

DM needs this principle to explain why it would be ok to kill in the following central cases: in self-defense, killing in a just war, and killing the fetus in rape-caused pregnancies.

Without some Tradeoff Principle, none of these kinds of killings would ever be justified given his FLO account of what makes killing wrong.

Apparently, DM intends Tradeoff to be a necessary condition for justifying killing creatures like us, not a sufficient condition. That is, Tradeoff must be satisfied in order to kill a creature like us.

If it were a sufficient condition for being justified in killing creatures like us, then whenever we could kill one person to prevent a greater loss of "valued-futures" we would be justified in doing so. But that's clearly wrong. E.g. organ harvesting

Problem with Tradeoff Principle

Lethal Threats: The Tradeoff Principle implies that we are justified in killing to prevent a lethal threat only if the benefit from killing would outweigh the loss from not killing, where benefits and harms are measured by "valuable future."

Counter-example: Young attacker of an old depressed person. Suppose a young person with very high future life-prospects attacks an old depressed person with the intention of killing him. Surely, it would be ok to prevent that attack, even if we could only do so by killing the young person.

But if Tradeoff were correct, we would not be justified in doing so, because the benefit from killing the young person would not be greater than the loss to the old depressed person that we would thereby prevent.

Badness of death, not killing objection

DM's FLO can't fully explain the serious wrongness of killing, only the serious badness of death.

DM is trying to account for what makes killing creatures like us seriously wrong. But is his FLO account sufficient to do that?

Compare the following two cases:

Case1: Suppose a stray bullet (non-negligently) fired from a nearby shooting range accidentally kills you. ("Stray Bullet")

Case2: Suppose you are intentionally shot to death as an innocent witness to a robbery. ("Murderer's Bullet")

Both incidents are equally seriously bad for you. And DM's FLO does give that result. But are both equally seriously wrong?

If not, then DM's FLO account has not succeeded at explaining what makes killing seriously wrong, but only (at best) what makes death seriously bad for creatures like us.

Modified case:

Stray Bullet with Aneurysm

As above, suppose a stray bullet (non-negligently) fired from a nearby shooting range accidentally strikes and kills you. After the accident, an autopsy reveals that you had a brain aneurysm that would have burst in less than two weeks, certainly killing you.

In this case, given DM's FLO, what you lost is merely (at most) two weeks of valuable future. And that's not very much, so being killed by the bullet was not seriously bad for you. This seems to be the wrong result.

How might DM reply to this problem?